

Program Pass Rate Standards For Legislation and Regulations Committee Review, Referral to Board, and Board vote

California Code of Regulations
Title 16 Professional and Vocational Regulations
Division 25. Board of Vocational Nursing and Psychiatric Technicians
Chapter 1. Vocational Nursing

Legend: **Deleted** text is indicated by ~~strikeout~~. (Voted by Board on 08/21/2020.)

Added text is indicated with an underline. (Voted by Board on 08/21/2020.)

Added text subsequently deleted is indicated with both underline and ~~double-strikethrough~~. (Requires Board approval by vote.)

§ 2530. General Requirements.

- (a) The program shall have sufficient resources, faculty, clinical facilities, library, staff and support services, physical space, skills laboratory and equipment to achieve the program's objectives.
- (b) Regular faculty meetings shall be held. Minutes shall be available to the Board's representative.
- (c) Clinical faculty shall have no other responsibilities during the hours assigned to the instruction of students.
- (d) Each teacher assistant shall work under the direction of an approved instructor. No more than one teacher assistant may be assigned to each instructor. Each teacher assistant shall assist the instructor in skills lab and clinical teaching only. The instructor to whom the teacher assistant is assigned shall be available to provide direction to the teacher assistant as needed.
- (e) Each instructor shall have a daily lesson plan which correlates the theory and practice offered to the student. A copy of this plan shall be available to the director.
- (f) The program's instructional plan shall be available to all faculty.
- (g) Each school shall have on file proof that each enrolled student has completed a general education course of study through the 12th grade or evidence of completion of the equivalent thereof. Equivalency is determined by the Department of Education in any of the United States or by a nationally-recognized regional accrediting body.
- (h) Each school shall have an attendance policy approved by the Board. The policy shall include but not be limited to, criteria for attendance and the specific course objectives for which make-up time is required. Acceptable methods for make-up include:
 - (1) Theory: case studies, independent study, written examination, attendance at seminars or workshops, auto-tutorial laboratory, and research reports.

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- (2) Clinical: performance evaluation in skills laboratory or additional time in the clinical area with clients/patients.
- (i) The school shall evaluate student performance to determine the need for remediation or removal from the program.
- (j) Each school shall advise students, in writing, of the following:
- (1) Right to contact the Board of program concerns.
 - (2) Credit for previous education and experience.
 - (3) School's grievance policy.
 - (4) List of Board approved clinical facilities.
- (k) The program shall have prior Board approval to increase the number of students per class and/or increase the frequency of admission of classes. Criteria to evaluate a school's request to increase the number of students per class and/or increase the frequency of class admissions include, but are not limited to:
- (1) Sufficient program resources as specified in Section 2530(a).
 - (2) Adequacy of clinical experience as specified in Section 2534.
 - (3) Licensure examination pass rates as specified in Section 2530(l).
- ~~(A)(l) The program shall maintain a yearly average minimum pass rate on the licensure examination that does not fall below 10 percentage points of the state average pass rate of seventy-five percent (75%) for first time candidates of approved vocational nursing schools, for the same period.~~
- (1) Failure to maintain the required yearly average minimum pass rate for ~~two~~ one years or ~~eight~~ four consecutive quarters may be cause to place a program on provisional approval.
 - ~~(2) If deemed necessary by the Board, in its sole discretion, more immediate action may be taken to implement the provisional approval process against a school as set forth in (l)(1) above.~~

History:

- On April 7, 2020, DCA regulations counsel proposed the following amendments to Section 2530(l), Article 5, Chapter 1, Division 25 of Title 16 of the California Code of Regulations to read as follows:

~~(A)(l) The program shall maintain a yearly average minimum pass rate on the licensure examination of seventy-five percent (75%) that does not fall below 10 percentage points of the state average pass rate for first time candidates of approved psychiatric technician schools, for the same period.~~

- (1) Failure to maintain the required yearly average minimum pass rate for ~~two~~ one years or ~~eight~~ four consecutive quarters may be cause to place a program on provisional approval.

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(2) If deemed necessary by the Board, in its sole discretion, more immediate action may be taken to implement the provisional approval process against a school set forth in (l)(1) above.

- Meeting minutes from the August 21, 2020 Board meeting cite a full Board vote with all members recorded aye for the proposed language (there was one member absent who did not vote).
- DCA's Regulations Unit (Unit) received Initial Phase package documents for review on March 30, 2021. Proposed language edits were received from DCA's Regulatory Counsel on April 29, 2021. After further review, Regulatory Counsel and Board Counsel concur and recommend removal of the previously "new" subsection (l)(2) for the following reasons:

1. The Board's "sole discretion," and "more immediate action" authority is already conferred by Cal. Bus. & Prof. Code § [2883](#):

"It shall be the duty of the board, through an official representative, to inspect or review all schools of vocational nursing in this state **at such times as the board shall deem necessary**. Written reports of the inspection or review shall be made to the board, which shall thereupon approve the schools of vocational nursing that meet the requirements provided by the board.

Upon receiving the report of the representative, **if the board determines that any approved school of vocational nursing is not maintaining the standard required by the board, notice thereof in writing specifying the defect or defects shall be immediately given to the school. If the defects are not corrected within a reasonable time, the school of nursing may be removed from the approved list and notice thereof in writing given to it."**

2. Cal. Gov. Code § [11349.1](#)

"The office shall review all regulations...using all of the following standards:

- (1) Necessity.
- (2) Authority.
- (3) Clarity.
- (4) Consistency.
- (5) Reference.
- (6) Nonduplication."**

Summary: Counsel agreed that the Office of Administrative Law is likely to find that the language of (l)(2) is duplicative to Cal. Bus. & Prof. Code §2883.

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Accordingly, Counsel suggest that this language be removed from the proposed changes to conform with the nonduplication standard as defined by Cal. Gov. Code § [11349\(f\)](#).